

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY

JOHN A. ROGERS, JR.

Movant,

v.

CIVIL ACTION NO. 5:04-00842

CRIMINAL ACTION NO. 5:03-00032-01

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND JUDGMENT ORDER

By Standing Order entered July 21, 2004, and filed in this case on August 9, 2004, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of Proposed Findings and Recommendation. Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation on March 9, 2007. (Doc. No. 183.) In that Proposed Findings and Recommendation, the magistrate judge recommended that this court dismiss the movant's motion under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Proposed Findings and Recommendation. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a *de novo*

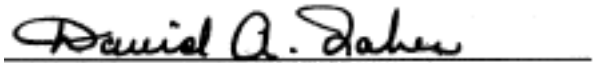
review by this court. Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140, 155 (1985).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby **DENIES** the movant's motion under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Doc. No. 164).

The Clerk is directed to remove this matter from the court's active docket and to forward a certified copy of this written Memorandum Opinion and Judgment Order to counsel of record.

IT IS SO ORDERED this 30<sup>th</sup> day of March, 2007.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Chief Judge